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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/082,749

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Wilfrid LeBlanc

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EXAMINER

TRAN, PHUC H

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

8

<b>Office Action Summary</b>	<b>Application No.</b> 10/082,749	<b>Applicant(s)</b> LEBLANC, WILFRID	
	<b>Examiner</b> PHUC H. TRAN	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-11, 17-30 and 35-45 is/are rejected.  
 7) ☒ Claim(s) 12-16, 31-34 and 46-50 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-11, 17-30, and 35-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Shlomot (U.S. Patent No. 6377931 B1).

- With respect to claims 1, 18 and 35, Shlomot teaches a method of processing communication signals, comprising steps of:

(a) receiving a transmitted encoded media data stream comprising a plurality of data elements, each data element representing a portion of a transmitted media session (e.g. the receiving terminal 204 in Fig. 2 receives packet stream from transmitting speech terminal 202);

(b) if a data element arrives prior to, or at, a predetermined playout deadline, performing steps of: (b)(i) decoding the data element (at the block 240 in Fig. 2);

(b)(ii) playing the media represented by the decoded data element (at the block 232 in Fig. 2); and

(b)(iii) providing the data element to a decoder state machine to update a decoder state (e.g. the speech decoder receiving the message from buffer management in fig. 2); and

(c) if a data element arrives after the predetermined playout deadline, providing the data element to the decoder state machine to update the decoder state (e.g. in fig. 4a P5 arrives at  $t+4$  therefore the underflow signal from jitter buffer to buffer management to control speech decoder).

- With respect to claim 2, 21, and 36, Shlomot discloses wherein if a data element arrives after the predetermined playout deadline, pursuant to step (c), the data element is not decoded and the media represented by the decoded data element is not played (col. 1, lines 59-61).

- With respect to claims 3-5, 22-24 and 37-39, Shlomot also teaches wherein the media data stream is an encoded audio data stream comprising a plurality of audio data elements, each representing a portion of a transmitted audio session (e.g. the data is packetized at block 220 in Fig. 2).

- With respect to claims 6-7, 25-26, and 40-41, Shlomot discloses wherein the playout deadline comprises an end of a predetermined interval that starts at an expected arrival time of the data element (e.g. Fig. 4 shows the predetermined interval of arriving time of data element).

- With respect to claims 8-9, 27-28, and 42-43, Shlomot teaches wherein decoding step (b)(i) comprises releasing the data element to a decoder that decodes the data element and wherein the playout deadline comprises an end of a predetermined interval that starts when a

previous data element in the data stream is released to the decoder (see Fig. 4 the time start and release to the decoder).

- With respect to claims 10-11, 17,29-30,and 44-45, Shlomot discloses wherein the data elements are packets of encoded data (col. 1, lines 19-20).

- With respect to claims 19-20, Shlomot teaches wherein saving step (c)(i) comprises saving a plurality of subsequently received data elements in memory (e.g. packet stored in jitter buffer) and wherein step (c)(ii) comprises: if the specified data element arrives after the predetermined playout deadline, providing the specified data element and the saved, subsequently received, data elements to the decoder state machine to update the decoder state (e.g. packet in Fig. 4 shows that packets arrive late or prior to deadline which output the jitter buffer as order).

### ***Allowable Subject Matter***

3. Claims 12-16,31-34 and 46-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-11, 17-30, and 35-45 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Kapilow (U.S. Patent No. 7047190 B1) discloses method and apparatus for performing packet loss or frame erasure concealment.

Hejna, Jr. (U.S. Patent No. 6598228 B1) discloses method and apparatus for controlling time-scale modification during multi-media broadcasts.

Thompson (U.S. Patent No. 2881245) discloses method and apparatus for transmitting MPEG data at an adaptive data rate.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571) 272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
6/6/06

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Phuc Tran  
Assistant Examiner  
Art Unit 2616

p.t  
6/5/06